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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,828	01/14/2004	Ran Mochary	1273-US	2391
86/087 7590 07/07/2009 Chapin Intellectual Property Law, LLC Westborough Office Park 1700 W. Park Drive, Suite 280 Westborough, MA 01581				
EXAMINER				
OPSASNICK, MICHAEL N				
ART UNIT		PAPER NUMBER		
2626				
MAIL DATE		DELIVERY MODE		
07/07/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/756,828	Applicant(s) MOCHARY ET AL.
Examiner MICHAEL N. OPSASNICK	Art Unit 2626

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 2 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): claim 50.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: 50.

Claim(s) rejected: 1, 3-21, 23-28, 30-44, 46-49, 51 and 52.

Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____

/Michael N. Opsasnick/
Primary Examiner, Art Unit 2626
7/2/09

Continuation of 11, does NOT place the application in condition for allowance because: 1) with respect to hyperlinks, examiner recommends complete removal of the hyperlink (and not just the removal of 'www. '); as to applicants arguments "respectfully disagrees and suggests that a telephone numbering system is an integral part of the subject matter in claims 1-49", examiner argues that the claim scope "identifies hard and soft constraints and the speech recognition unit employs the identified hard constraints for recognizing spoken telephone digits in the incoming speech signal" in claim 49 is more narrow and not coextensive in scope compared to applicants generic "phone number plan"; speech dialer for recognizing speech"; "speech dialer utilizes said numberering plan as hard constraints", etc.,-- Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As to applicants arguments against the Schalk reference not teaching hard and soft constraints, examiner argues that the Irvin reference is used to teach hard constraints, and that the Schalk reference is introduced to expand the teachings of Irvin hard constraints to spoken telephone digits (see para 7 of the OA, referring back to Irvin addressing hard constraints. Not only is applicants representative mischaracterizing the statements of the OA, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Clearly, the Irvin reference is used (in a 102 rejection) to address the use of hard constraints, and that the Schalk reference is used in a combination of Irvin in view of Schalk to address the narrower claim scope of dependent claim 49. Applicants arguments have not addressed these main portions of the OA, but instead presents a blanket statement in the last paragraph of page 2 of the response, summarily arguing "piecemeal prosecution" and the like -- Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.-- at this juncture of the response, neither the applied Irvin reference to hard constraints, nor the combination of Irvin in view of Schalk has been addressed. In the first 2 paragraphs of page 3 of the response, applicants characterize the Schalk reference for hard constraints for recognizing spoken telephone digits, examiner repeats the arguments presented above. Applicants arguments have overcome the rejection of claim 50.

/Michael N. Opsasnick/
Primary Examiner, Art Unit 2626
7/2/09